

## **CHAPTER 33-04-06 DELAYED REGISTRATION OF BIRTHS**

### **Section**

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**33-04-06-01. Registration - Seven days to one year.** Certificates of birth filed after seven days, but within one year from the date of birth, shall be registered on the standard form of live birth certificate in the manner prescribed in North Dakota Century Code section 23-02.1-13. Such certificate shall not be marked "delayed".

In any case where the certificate is signed by someone other than the attendant, a notarized statement setting forth the reason therefore must be attached to the certificate. The state registrar may require additional evidence in support of the facts of birth or an explanation for the delay in filing.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-02. Delayed certificate of birth form.** All certificates registered one year or more after the date of the birth are to be registered on a delayed certificate of birth form prescribed by the state registrar.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-03. Who may request the registration of and sign a delayed certificate of birth.** Any person born in this state whose birth is not recorded in this state, or the person's parent, guardian, next of kin, or older person acting for the registrant and having personal knowledge of the facts of birth may request the registration of a delayed certificate of birth, subject to these rules and instructions issued by the state registrar.

Each delayed certificate of birth shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is of legal age and is competent to sign and swear to the accuracy of the facts stated therein; otherwise the certificate shall be signed and sworn to by one of the following in the indicated order of priority:

1. One of the parents of the registrant.
2. The guardian of the registrant.
3. The next of kin of the registrant.
4. Any older person having personal knowledge of the facts of birth.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-04. Facts to be established for a delayed registration of birth.**

The minimum facts which must be established by documentary evidence shall be all of the following:

1. The full name of the person at the time of birth.
2. The date of birth and the place of the birth.
3. The full maiden name of the mother.
4. The full name of the father; except that if the mother was not married to the father of the child either at the time of conception or birth, the name of the father shall not be entered on the delayed certificate unless otherwise determined in a court paternity action, or unless an affidavit of acknowledgment of paternity signed by both parents is received stating the surname of the child to be that of the father.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-05. Delayed registration following a legal change of status.**

When evidence is presented reflecting a legal change of status by adoption, legitimation, paternity determination, or acknowledgment, a new delayed certificate may be established to reflect such changes.

The existing certificate and evidence upon which the new certificate was based shall be placed in a special file. Such files shall not be open to inspection except upon order of a court of competent jurisdiction or by the state registrar for purposes of properly administering the vital records registration program.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-06. Documentary evidence - Requirements.** To be acceptable for filing, the name of the registrant and date and place of birth entered on the delayed certificate of birth shall be supported by at least:

1. Two pieces of documentary evidence, only one of which may be an affidavit of personal knowledge, if the record is filed within seven years after the date of birth.
2. Three pieces of documentary evidence, only one of which may be an affidavit of personal knowledge, if the record is filed seven years or more after the date of birth.

Facts of parentage need be supported by only one document which may be one of the documents above other than the affidavit of personal knowledge.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-07. Documentary evidence - Acceptability.** The state registrar may establish a priority of best evidence.

Documents presented, such as census, hospital, church, and school records, must be from independent sources and shall be in the form of the original record or duly certified copy thereof or a signed statement from the custodian of the record or document.

All documents submitted in evidence, other than an affidavit of personal knowledge, must have been established at least ten years prior to the date of application or have been established prior to the applicant's tenth birthday.

An affidavit of personal knowledge, to be acceptable, must be prepared by one of the parents, the next of kin, or any older person and must be signed before an official authorized to administer oaths. The affiant must be at least ten years older than the applicant, except that if the affiant is a member of the applicant's immediate family, the affiant need only be at least four years older than the applicant, and have personal knowledge of the facts of birth.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-08. Abstraction of documentary evidence.** The state registrar, or the state registrar's designated representative, shall abstract on the delayed certificate of birth a description of each document submitted to support the facts shown on the delayed birth certificate. The description shall include:

1. The title or description of the document.
2. The name and address of the affiant, if the document is an affidavit of personal knowledge, or of the custodian, if the document is an original or certified copy of a record or signed statement.
3. The date of the original filing of the document being abstracted.

4. The information regarding the birth facts contained within the document.

All documents submitted in support of the delayed birth registration shall be returned to the applicant after review and abstraction.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-15

**33-04-06-09. Certification by the state registrar.** The state registrar, or the state registrar's designated representative, shall, by the state registrar's signature, certify:

1. That no prior birth certificate is on file for the person whose birth is to be recorded.
2. That the state registrar has reviewed the evidence submitted to establish the facts of birth.
3. That the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and the content of the document.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-04

**33-04-06-10. Dismissal after one year.** Applications for delayed certificates of birth which have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar shall advise the applicant of the state registrar's decision and all documents submitted in support of such registration shall be returned to the applicant.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-04